

LATONIA SMITH
9748 CANYON LANDING AVE.
LAS VEGAS, NV 89166
725-203-2455
PLAINTIFF IN PROPER PERSON

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
SEP 05 2019	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY:	DEPUTY

LATONIA SMITH,

Plaintiff(s),

-vs-

CASE NO. 2:19-cv-00824-GMN-EJY

FENNEMORE CRAIG,

Defendant(s).

MOTION TO HOLD BRANDON TROUT AND JEROME BOWEN IN CONTEMPT OF COURT; MOTION TO COMPEL BRANDON TROUT AND JEROME BOWEN TO ATTEND DEPOSITION

I. INTRODUCTION

Plaintiff, Latonia Smith, moves to hold Brandon Trout and Jerome Bowen in contempt of court. On August 2, 2019, Plaintiff served a notice of intent to serve subpoenas on opposing counsel. Opposing counsel contacted Brandon Trout and Jerome Bowen to warn them of the incoming subpoenas. The process server attempted to serve both parties multiple times and noted that both parties were actively avoiding service, even refusing to come forward to accept the service (**Exhibit 1**). The process server later served both parties at different addresses (**Exhibit 2**). Both individuals were duly noticed. Both individuals did not attend deposition and did not produce documents pursuant to the subpoenas. Under Rule 45(g), both parties should be held in contempt for failing to obey the subpoenas without adequate excuse and ordered by the court to attend deposition and produce documents.


MEMORANDUM OF POINTS AND AUTHORITIES

II. DEPOSITION ATTENDANCE AND DOCUMENT PRODUCTION

The discretion of district courts in managing cases include pretrial activities such as discovery. *Chrysler Int'l Corp. v. Chenaly*, 280 F.3d 1358, 1360 (11 Cir. 2002). Brandon Trout and Jerome Bowen were subpoenaed to attend deposition and produce documents on September 3, 2019 and September 4, 2019, respectively. Without notice or reason, both parties did not attend deposition, or produce documents at the times and locations listed on the issued subpoenas in direct violation of FRCP 45. Both parties were perfectly able to attend and aware of the scheduled depositions. As of this date, neither subject has moved for a protective order and/or provided reasoning/objections for their non-attendance and non-production.

III. CONCLUSION

For the foregoing reason, Plaintiff requests that this motion be granted.


/s/ Latonia Smith
LATONIA SMITH
9748 CANYON LANDING
AVE.
LAS VEGAS, NV 89166

CERTIFICATE OF SERVICE

I certify that I am serving a true and correct copy of the attached MOTION TO COMPEL on the parties set forth below by:

_____ placing an original or true copy thereof in a sealed envelope with the correct prepaid postage affixed for collection and mailing in the United States Mail, at Las Vegas, Nevada.

 X Certified Mail, Return Receipt Requested of the document(s) listed above to the person(s) at the address(es) set forth below

_____ E-service

_____ Personal delivery through a process server of the document(s) listed above to the person(s) at the address(es) set forth below

Brandon Trout

10522 Lilac Tree Ave.

Las Vegas, NV 89135

Jerome Bowen

3300 North Buffalo Drive

Las Vegas, NV 89129

Alex Fugazzi and Michael Paretti

SNELL AND WILMER

3883 Howard Hughes Parkway Suite 1100

Las Vegas, NV 89169

702-784-5200

afugazzi@swlaw.com

mparetti@swlaw.com


/s/ Latonia Smith

Plaintiff, In Proper Person

Dated this 5th day of September 2019

EXHIBIT 1

AFFIDAVIT OF PROCESS SERVER

United States District Court

State of Nevada

Latonia Smith

Plaintiff

vs.

Fennemore Craig

Defendant

Attorney:

Latonia Smith
9748 Canyon Landing Ave.
Las Vegas, NV. 89166

Case Number: 2:19-cv-00824-GMN-GWF

Court / Appearance Date: 09-23-2019

Court Time: 09:00 am

Legal documents received by Las Vegas Investigations, Inc. on August 02nd, 2019 at 12:00 PM to be served upon **Brandon Trout at 3790 Paradise Road Suite 250, Las Vegas, NV. 89169**

I, Phillip M. Roszelle, swear and affirm that on **August 23rd, 2019 at 10:50 AM**, I did the following:

NON-SERVED: After a number of diligent attempts, I was unable to serve the because the subject appears to be evading the service of process.

Supplemental Data Appropriate to this Service:

8/13/19 10:35 PM Per Eve assistant stated subj. is unavailable

8/23/19 10:50 AM Subj. refused to come fwd. and accept

I being duly sworn, states: that all times herein, Affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made.

1. If executed in this State: "I declare under penalty of perjury that the foregoing is true and correct."

Executed on

8/26/19



Phillip M. Roszelle
Process Server, # 1478

Las Vegas Investigations, Inc.
dba Action Process Service of Nevada
7345 S. Durango Dr. #B107-179
Las Vegas, 89113

(702) 309-7378

Internal Job ID: 2019000649

Reference Number:

AFFIDAVIT OF PROCESS SERVER

United States District Court

State of Nevada

Latonia Smith

Plaintiff

vs.

Fennemore Craig

Defendant

Attorney:

**Latonia Smith
9748 Canyon Landing Ave.
Las Vegas, NV. 89166**

Case Number: 2:19-cv-00824-GMN-GWF

**Court / Appearance Date: 09-03-2019
Court Time: 09:45 am**

Legal documents received by Las Vegas Investigations, Inc. on August 02nd, 2019 at 12:00 PM to be served upon **Brandon Trout at 3790 Paradise Road Suite 250, Las Vegas, NV. 89169**

I, Phillip M. Roszelle, swear and affirm that on **August 23rd, 2019 at 10:50 AM**, I did the following:

NON-SERVED: After a number of diligent attempts, I was unable to serve the because the subject appears to be evading the service of process.

Supplemental Data Appropriate to this Service:

8/13/19 10:35 PM Per Eve assistant stated subj. is unavailable

8/23/19 10:50 AM Subj. refused to come fwd. and accept

I being duly sworn, states: that all times herein, Affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made.

I, if executed in this State, I declare under penalty of perjury that the foregoing is true and correct."

Executed on 8/26/19



Phillip M. Roszelle
Process Server # 1478

**Las Vegas Investigations, Inc.
dba Action Process Service of Nevada
7345 S. Durango Dr. #B107-179
Las Vegas, 89113**

(702) 309-7378

Internal Job ID: 2019000648

Reference Number:

AFFIDAVIT OF PROCESS SERVER

United States District Court

State of Nevada

Latonia Smith

Plaintiff

vs.

Fennemore Craig

Defendant

Attorney:

Latonia Smith
9748 Canyon Landing Ave.
Las Vegas, NV. 89166

Case Number: 2:19-cv-00824-GMN-GWF

Court / Appearance Date: 09-04-2019
Court Time: 08:00 am

Legal documents received by Las Vegas Investigations, Inc. on August 02nd, 2019 at 12:00 PM to be served upon **Jerome Bowen at 9960 W Cheyenne Ave #250, Las Vegas, NV. 89129**

I, Phillip M. Roszelle, swear and affirm that on **August 23rd, 2019 at 10:12 AM**, I did the following:

NON-SERVED: After a number of diligent attempts, I was unable to serve the because the subject appears to be evading the service of process.

Supplemental Data Appropriate to this Service:

8/13/19 12:20PM Subj. unavailable at office location
8/14/19 12:19 PM Subj. not available
8/20/19 3:12 PM Subj. Unavailable
8/23/19 10:122 PM Was told subj. is out of town

I being duly sworn, states: that all times herein, Affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made.

1. If executed in this State: "I declare under penalty of perjury that the foregoing is true and correct."

Executed on 8/26/19



Phillip M. Roszelle
Process Server, # 1478

Las Vegas Investigations, Inc.
dba Action Process Service of Nevada
7345 S. Durango Dr. #B107-179
Las Vegas, 89113

(702) 309-7378

Internal Job ID: 2019000656

Reference Number:

EXHIBIT 2

AFFIDAVIT OF PROCESS SERVER

United States District Court

State of Nevada

Latonia Smith

Plaintiff

vs.

Fennemore Craig

Defendant

Attorney:

Latonia Smith
9748 Canyon Landing Ave.
Las Vegas, NV. 89166

Case Number: 2:19-cv-00824-GMN-GWF

Court / Appearance Date: 09-23-2019
Court Time: 09:00 am

Legal documents received by Las Vegas Investigations, Inc. on August 02nd, 2019 at 12:00 PM to be served upon **Jerome Bowen at 3300 North Buffalo Drive, Las Vegas, NV. 89129**

I, Tovia Sam Ching, swear and affirm that on **September 01st, 2019 at 10:30 AM**, I did the following:

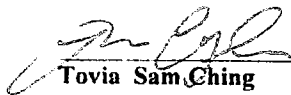
Individually Served Jerome Bowen the person listed as the intended recipient of the legal document with a conformed copy of this **Subpoena To Produce Documents, Information, Or Objects Or To Permit Inspection Of Premises In A Civil Action**. The service date, time, my initials and/or name, and identification number, if required by state statute, were listed on the document served.

Supplemental Data Appropriate to this Service:

I being duly sworn, states: that all times herein, Affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made.

I, If executed in this State, I declare under penalty of perjury that the foregoing is true and correct."

Executed on 9-4-19



Tovia Sam Ching
Process Server, # R-084557

Las Vegas Investigations, Inc.
dba Action Process Service of Nevada
7345 S. Durango Dr. #B107-179
Las Vegas, 89113

(702) 309-7378

Internal Job ID: 2019000729

Reference Number:

AFFIDAVIT OF PROCESS SERVER

United States District Court

State of Nevada

Latonia Smith

Plaintiff

vs.

Fennemore Craig

Defendant

Attorney:

Latonia Smith
9748 Canyon Landing Ave.
Las Vegas, NV. 89166

Case Number: 2:19-cv-00824-GMN-GWF

Court / Appearance Date: 09-04-2019
Court Time: 08:00 am

Legal documents received by Las Vegas Investigations, Inc. on August 02nd, 2019 at 12:00 PM to be served upon **Jerome Bowen at 3300 North Buffalo Drive, Las Vegas, NV. 89129**

I, Tovia Sam Ching, swear and affirm that on **September 01st, 2019 at 10:30 AM**, I did the following:

Individually Served Jerome Bowen the person listed as the intended recipient of the legal document with a conformed copy of this **Subpoena To Testify At A Deposition In A Civil Action**. The service date, time, my initials and/or name, and identification number, if required by state statute, were listed on the document served.

Supplemental Data Appropriate to this Service:

I being duly sworn, states: that all times herein, Affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made.

I, if executed in this State, declare under penalty of perjury that the foregoing is true and correct."

Executed on 9-01-19



Tovia Sam Ching
Process Server, # R-084557

Las Vegas Investigations, Inc.
dba Action Process Service of Nevada
7345 S. Durango Dr. #B107-179
Las Vegas, 89113

(702) 309-7378

Internal Job ID: 2019000728

Reference Number:

AFFIDAVIT OF PROCESS SERVER

United States District Court

State of Nevada

Latonia Smith

Plaintiff

vs.

Fennemore Craig

Defendant

Attorney:

Latonia Smith
9748 Canyon Landing Ave.
Las Vegas, NV. 89166

Case Number: 2:19-cv-00824-GMN-GWF

Court / Appearance Date: 09-03-2019
Court Time: 09:45 am

Legal documents received by Las Vegas Investigations, Inc. on August 27th, 2019 at 12:00 PM to be served upon **Brandon Trout at 10522 Lilac Tree Ave., Las Vegas, NV. 89135**

I, Tovia Sam Ching, swear and affirm that on **August 28th, 2019 at 8:06 PM**, I did the following:

Individually Served Brandon Trout the person listed as the intended recipient of the legal document with a conformed copy of this **Subpoena To Testify At A Deposition In A Civil Action**. The service date, time, my initials and/or name, and identification number, if required by state statute, were listed on the document served.

Supplemental Data Appropriate to this Service:

I being duly sworn, states: that all times herein, Affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made.

1. If executed in this State: "I declare under penalty of perjury that the foregoing is true and correct."

Executed on 9-4-19


Tovia Sam Ching
Process Server, # R-084557

Las Vegas Investigations, Inc.
dba Action Process Service of Nevada
7345 S. Durango Dr. #B107-179
Las Vegas, 89113

(702) 309-7378

Internal Job ID: 2019000730

Reference Number:

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AFFIDAVIT OF PROCESS SERVER

United States District Court

State of Nevada

Latonia Smith

Plaintiff

vs.

Fennemore Craig

Defendant

Attorney:

Latonia Smith
9748 Canyon Landing Ave.
Las Vegas, NV. 89166

Case Number: 2:19-cv-00824-GMN-GWF

Court / Appearance Date: 09-23-2019

Court Time: 09:00 am

Legal documents received by Las Vegas Investigations, Inc. on August 27th, 2019 at 12:00 PM to be served upon **Brandon Trout** at **10522 Lilac Tree Ave., Las Vegas, NV. 89135**

I, Tovia Sam Ching, swear and affirm that on **August 28th, 2019 at 8:06 PM**, I did the following:

Individually Served Brandon Trout the person listed as the intended recipient of the legal document with a conformed copy of this **Subpoena To Produce Documents, Information, Or Objects Or To Permit Inspection Of Premises In A Civil Action**. The service date, time, my initials and/or name, and identification number, if required by state statute, were listed on the document served.

Supplemental Data Appropriate to this Service:

I being duly sworn, states: that all times herein, Affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made.

I, If executed in this State: "I declare under penalty of perjury that the foregoing is true and correct."

Executed on 9-4-19


Tovia Sam Ching

Process Server, # R-084557

Las Vegas Investigations, Inc.
dba Action Process Service of Nevada
7345 S. Durango Dr. #B107-179
Las Vegas, 89113

(702) 309-7378

Internal Job ID: 2019000731

Reference Number: